OFFICE OF THE INTEGRITY COMMISSIONER OF ONTARIO

ENCOURAGING A CULTURE OF INTEGRITY

Annual Report 2014–2015

Legislative
Assembly
of Ontario

Assemblée
législative
de l'Ontario

Office of the Integrity Commissioner
Lynn Morrison, Commissioner

Bureau du commissaire à l'intégrité
Lynn Morrison, Commissaire

June 2015

The Honourable Dave Levac
Speaker of the Legislative Assembly of Ontario

Dear Mr. Speaker,

It is an honour to present the Annual Report of the Office of the Integrity Commissioner for the period April 1, 2014, to March 31, 2015.

Yours very truly,

Lynn Morrison
Integrity Commissioner

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COMMISSIONER'S MESSAGE

This year I marked my 35th year in public service, and having decided not to seek a renewal of my appointment as Integrity Commissioner, I spent some time reflecting on accountability and transparency in government. I have seen many changes over the course of my career with the Office of the Integrity Commissioner of Ontario, entrusted with key mandates to strengthen public trust in government. With the first mandate under the *Members' Conflict of Interest Act, 1988* (now known as the *Members' Integrity Act, 1994*), we provided conflict of interest advice to MPPs from a small office with one desk, one chair, one telephone and a garbage can. Today the Office employs 13 people, providing services under six mandates and five pieces of legislation. Significant legislative amendments passed this year will substantively change and increase our responsibilities again, yet the core principles remain the same as in those early days: providing ethical leadership and advice to Ontario's elected officials and staff.

Integrity and respect for all who work in government are at the heart of everything I do. It is what my Office stands for. We strive to meet the highest ethical standards to help strengthen the public trust in government and its officials.

Heightened public scrutiny about conflict of interest and ethical matters helps persuade elected officials of the value of the services this Office provides. And in this I have always believed in two things. First, I try to make decisions and offer advice that makes good common sense. Second, I firmly believe that education and training make a difference. We can't legislate ethics or integrity, but we can all make it a part of who we are. Leading the discussion on conflict of interest and ethical choices helps encourage elected officials, political staff and public servants to put the needs of the public trust first as they fulfill their responsibilities at work. The Office of the Integrity Commissioner does make a difference.

The advice offered by the Office has adapted to this changing environment. I have worked very hard to publicly explain the principles of accountability and transparency that form the foundation for the advice I provide. I have made education and training the focus of my term as Commissioner. I may not have been able to speak about case details beyond the anonymized summaries that appear in the annual reports, but I have seized every opportunity to speak publicly about what constitutes ethical behaviour and how this translates into public service in the current day.

I am pleased to note, also, that through the years the Office has proactively highlighted the need for legislative change in many of the Office's mandates. As a matter of course we regularly review the laws under which we work, and we have succeeded in bringing about important amendments to the *Members' Integrity Act, 1994*, and most recently, the *Lobbyists Registration Act, 1998*, and the

Public Sector Expenses Review Act, 2009. Many of these amendments are the result of my Office's persistent efforts to persuade government of the need to improve legislation and change with the times. I have not been as successful in my work to update the disclosure of wrongdoing provisions of the *Public Service of Ontario Act, 2006*, but am confident that the Office will continue this effort.

My time in the Office will soon end; however, the need for integrity and ethical guidance is as important as ever. The public has always had the expectation that those in public service will act ethically and with integrity. What has changed over the years is the sense of what constitutes ethical behaviour and integrity — where once it was sufficient to comply with the rules, for example, now an official might be criticized because the perception is that the rules themselves are not strict enough. There is an expectation that the elected official and public servant should be going beyond the rules, doing more to ensure that their behaviour meets a higher, often unwritten, standard.

> "The need for integrity and ethical guidance is as important as ever"

With this in mind, I am dismayed when I see how elected officials behave during Question Period. It does not meet the standards expected of the Ontario public and is a public embarrassment. Indeed, the Preamble to the *Members' Integrity Act* states: "Members are expected to perform their duties of office and arrange their private affairs in a manner that promotes public confidence in the integrity of each member, maintains the Assembly's dignity and justifies the respect in which society holds the Assembly and its members."

The dignity and respect have been lost, and public cynicism is increasing. Former Integrity Commissioners have called Question Period "a manifestation of unenlightened juvenile behaviour" and "an unattractive partisan theatrical performance which denigrates the institution of the Assembly." I have a duty to honour this office, and I would not be fulfilling that duty if I did not speak up. I join my predecessors in expressing concern, and once again, I encourage members to take a step forward and make some changes.

Legislative Updates

In December, the government passed the *Public Sector and MPP Accountability and Transparency Act, 2014*. The Act amended three pieces of legislation affecting two mandates for my Office: lobbyists registration and expenses review.

Lobbyists Registration Act, 1998

I welcome the amendments to the *Lobbyists Registration Act, 1998*, as I have been calling for a review for a number of years. A summary of the changes to the Act is included later in this report, but one significant change bears mentioning here. This amendment provides the Integrity Commissioner, as Lobbyists Registrar, with the power to investigate complaints under the Act and to issue penalties. These changes are long overdue, and they give the Registrar the necessary tools to ensure that lobbyists are in compliance with the Act.

However, the amendments did not go far enough with regard to the registration requirements for in-house lobbyists. These are the people employed by for-profit and not-for-profit entities.

> "The amendments did not go far enough..."

Previously, an in-house lobbyist was required to register their activity only if it constituted a "significant part of duties" — this translated into 96 hours of lobbying within a three-month period and became known as "the 20% rule." I renamed this "the 20% loophole" because it set such a high threshold for submitting a registration and it did not reflect the purpose of the Act, which is to provide the public with full and accurate information about who is lobbying whom about what. It was not transparent.

I advocated for a lower threshold of five hours a year, arguing that if anyone spent that much time lobbying a public office holder, then that activity would be sufficiently important for them to be required to register. Registration is free, online and simple to complete.

As a result of the amendments, this threshold has been reduced to 50 hours annually, and while it is an improvement, it is not enough — the bar is still set too high. It remains my view that any person who lobbies five hours a year should be bound by accountability and transparency to the fullest extent.

Expenses Review

Since 2010, the Office has reviewed the expenses of 21 of Ontario's largest agencies, and I have been pleased with the high degree of compliance. I believe it is important to recognize those agencies that have achieved a consistent record of compliance and to now turn our attention to other entities that could benefit from my Office's review. With changes to the Office's expense mandate, I will determine which

of the approximately 180 provincial agencies, boards and commissions will have their travel, meal and hospitality expense claims reviewed by my Office, and when.

In keeping with these changes, I continue to urge the government to improve the system for all involved by implementing a *per diem* system for those public servants who travel on business. This would provide clarity for travellers and reduce expense claim paperwork while still keeping a maximum cap on spending.

Disclosure of Wrongdoing

In 2012, my Office conducted a thorough review of the disclosure of wrongdoing provisions in the *Public Service of Ontario Act, 2006*, as part of the mandated five-year legislated review. The government did not act on my recommendations for amendments, but did undertake to strengthen communications with current and former members of the Ontario Public Service so that all employees would be aware of the frameworks in place for disclosures of wrongdoing.

> "The Act clearly places the responsibility for outreach and education on Ethics Executives"

Very few public servants have disclosed potential wrongdoing internally to the government under the disclosure of wrongdoing framework since the Act came into force. Although the government has taken steps to educate and train members of the OPS about the disclosure of wrongdoing provisions, the low number of public servants who have come forward suggests that more needs to be done. The Act clearly places the responsibility for outreach and education on Ethics Executives — the deputy ministers and heads of Ontario's public bodies. The government must provide them with the necessary tools and procedures to ensure that disclosures are meaningfully received and investigated.

To give meaning to the disclosure of wrongdoing provisions, it is also incumbent on the government to foster an environment in which public servants are encouraged to come forward when they become aware of potential wrongdoing. It is my view that this can be achieved only by ensuring that there is a continuing dialogue about the importance of ethics in the public sector.

Ministers' Staff Consultation

In April, I became concerned when I read stories in the media about the actions of ministers' staff. As Ethics Executive for this group, I wanted

to learn more about their roles at Queen's Park to assist me in providing the best possible advice and to determine if the *Public Service of Ontario Act, 2006*, accurately reflects the realities of political life. Through the summer and fall I spoke with more than 50 current and former MPPs, premiers, public servants and ministers' staff. These conversations were not only enjoyable but also very thoughtful, provocative and informative. I am grateful for the time spent, and the candour, as we discussed the issues of training, ethical leadership and how all MPP staff at Queen's Park might benefit from the resources of my Office.

My report made five recommendations that are set out in detail later in this report in the "Ministers' Staff" section under "Consultation on the Role of Ministers' Staff." The recommendations are not made lightly and are as follows: that conflict of interest rules should be extended to include all staff in MPP offices across party lines; that the government should implement a professional human resource framework that includes job descriptions and performance appraisals; that steps should be taken to provide clarity to the rules on political activity; that all political staff should receive mandatory training with respect to ethical obligations; and that all political masters should take a leadership role with their staff.

"These conversations were not only enjoyable but also very thoughtful, provocative and informative"

These are practices that can be found in any well-run, ethical business, and I am offering the services of our Office to assist wherever we can. As of the writing of this report, we have received very favourable comments; however, I will be following up with all parties to encourage the acceptance and implementation of the recommendations.

Outreach and Training

The Office website was relaunched in May, introducing a clean and fresh design that is also adaptable for viewing on mobile devices. We updated and added new content, and continue to add resources to help our stakeholders understand our mandates. Search engine optimization now also means our content appears with greater regularity when people are searching online for resources and information.

The Office also launched on Twitter: @ON_Integrity. This has provided us with a valuable real-time tool to share information about the Office's activities.

We also took major steps to expand our outreach. In January we held a one-day training open house at Queen's Park, inviting all MPPs and their

staff — not just those who are covered by Office mandates. We ran training sessions in the morning and afternoon, and were also available throughout the day to answer questions and discuss our work. We created seven new brochures for distribution, and have made these available on the website.

This was all in addition to training sessions that I conducted with new MPPs, political staff working in ministers' offices, constituency staff from all parties, public administration students looking for careers as political staffers or lobbyists, visiting foreign delegations, Queen's Park interns and more. I enjoy this work, as I believe that education and training are at the heart of all effective ethics programs.

In Conclusion

Through the years, I have benefited immensely from the wise counsel and assistance of my colleagues in other jurisdictions, notably the commissioners and staff who make up the Canadian Conflict of Interest Network and the Canadian Lobbyist Registrars and Commissioners Network. These professionals have been ever helpful in responding to questions and requests for information, and I thank them for their generosity and friendship.

In December, I was deeply honoured to receive the 2014 COGEL Award at the annual conference of the Council on Governmental Ethics Laws in Pittsburgh, PA. The award is bestowed annually on "an individual who has, over a significant period of time, made a meaningful and positive contribution to the fields of campaign finance, elections, ethics, freedom of information or lobbying." I was humbled to accept the award, and in doing so, I noted that the need for ethical leadership is greater than ever. The public demands accountability and transparency, and it is the responsibility of offices such as the Office of the Integrity Commissioner — and similar offices in other jurisdictions, as well as other Officers of the Legislative Assembly of Ontario — to help our elected leaders meet these high expectations.

And finally, I would like to express my heartfelt thanks to the staff of the Office, whose professionalism, dedication and good humour have made this such a rewarding place to work. Having been with the Office since day one, it has been my pleasure to see it grow in size and importance. This is in no small measure due to the commitment and passion my staff have about accountability, transparency and ethical leadership. Integrity truly does matter, and does make a difference. I am confident they will continue to hold the ethical torch high.

ADVISING MPPS ON CONFLICT OF INTEREST AND ETHICAL BEHAVIOUR

MEMBERS' INTEGRITY

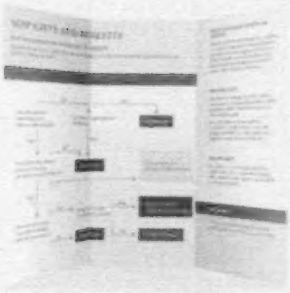
MEMBERS' INTEGRITY

Mandate

Under the *Members' Integrity Act, 1994*, the Integrity Commissioner is responsible for:

1. receiving inquiries and offering advice on ethical issues raised by MPPs;
2. overseeing each MPP's annual private and public disclosure statements; and
3. conducting inquiries into alleged violations of the Act when raised by one MPP about another.

Overview



The Office created a new gifts and benefits brochure for MPPs.

The Commissioner provides members of provincial parliament with confidential opinions regarding integrity issues that arise in the performance of an MPP's duties of office at the constituency office, at Queen's Park, or at ministry offices. The Office received 351 inquiries this year. Many of the inquiries were related to serving constituents, but MPPs also asked about accepting gifts, fundraising, providing letters of support, municipal elections and their ethical obligations during the writ period. The Office strives to answer all inquiries within 24 hours; however, the complexity of an issue may demand that more time be taken.

After the general election in June, all MPPs were required to submit a private financial disclosure statement to the Office and to review their holdings with the Commissioner in a one-on-one meeting. The Commissioner welcomed 19 new MPPs and had the opportunity to familiarize them with the work of the Office. Topics discussed at these meetings included the guidelines for meeting with lobbyists, the rules of receiving gifts and benefits, the use of social media, and the appearance of partisan materials on constituency websites. Public disclosure statements for all MPPs were filed with the Clerk of the Legislative Assembly in December and are available on the Office's website.

This past year also saw the Commissioner reach out to MPPs and their staff, including a training open house at Queen's Park. The Office also conducted 14 training sessions with constituency offices and Queen's Park staff. Training is a priority for the Commissioner, with a goal to assist MPPs and their staff in recognizing ethical issues before they arise.

Complaint under Section 30

The Commissioner received a complaint from MPP Yvan Baker (Etobicoke Centre) about MPP Jagmeet Singh (Bramalea-Gore-Malton). The Commissioner was asked to investigate whether Mr. Singh breached the Act in relation to the use of his constituency office and his website. The matter was under review at fiscal year-end, and a report will be available on the Office's website.

Inquiries

The following are samples of inquiries received by the Commissioner this year. These summaries are published to help MPPs and their staffs identify circumstances that could give rise to issues under the Act. The inquiries and the opinions are abbreviated and anonymized and are provided in order to raise awareness. It is important to remember that each opinion is based on its own set of disclosed facts and should not be considered a substitute for calling or writing the Office.

Gifts and Benefits

Under the *Members' Integrity Act*, MPPs may accept only those gifts that are connected to their responsibilities of office and that are given on account of custom, protocol or social obligation. MPPs may also accept a gift if the Integrity Commissioner deems that it is not likely that the gift or benefit was given in an attempt to influence the MPP. The Commissioner encourages all MPPs to seek guidance each time they are offered a gift or benefit.

INQUIRY

A government relations firm gives out an annual staff recognition award to constituency offices. Is it appropriate for an MPP to nominate his staff?

OPINION

The Commissioner advised that the MPP not participate in the awards, as it could be considered an inappropriate gift from a lobbyist. Gifts and benefits can take many forms. Intangible benefits can also have the effect of appearing to influence MPPs and their staffs, especially when they are not part of an MPP's normal responsibilities of office.

INQUIRY

An MPP has been invited to speak at a community event as a government representative. The MPP has been offered two tickets to the same event for the day of the speech. Can the MPP accept the tickets?

OPINION

The Commissioner deemed that this was an appropriate gift because the MPP was performing an official function at the event. It is customary for anyone, especially dignitaries, to accept tickets to an event at which they are also performing official duties in the normal course of the MPP's responsibilities of office.

INQUIRY

Staff from a business in an MPP's riding are in Toronto for the day and would like to buy the local MPP lunch to discuss a new initiative. Is this appropriate?

OPINION

The Commissioner advised that this was inappropriate, given that the intent was to lobby the MPP. Gifts of meals from lobbyists are not considered to be on account of custom, protocol or social obligation and are thus inappropriate for MPPs to accept.

INQUIRY

An MPP hosts an annual community barbecue. A local grocery store has offered to make an "in-kind" donation of food for the event. Can the MPP accept the donated food?

OPINION

The Commissioner advised against accepting the donation because it could be considered a gift or benefit under the Act. The donation was not offered on account of the custom, protocol or social obligations that normally accompany an MPP's responsibilities of office, because the MPP was not required to have a barbecue.

Letters of Support

MPPs are routinely asked to provide letters of reference. As a general guideline, the Commissioner recommends that a letter be provided only under the following conditions:

1. The MPP knows the individual involved.
2. The MPP maintains as much control over the letter as possible. Never prepare a letter addressed "To Whom it May Concern." The MPP should also ensure that the letter is mailed directly to the intended recipient and may wish not to provide a copy to the person or organization that is the subject of the letter.

3. The MPP uses appropriate letterhead.
4. The MPP's letter should not be generic, but rather as specific as possible to the matter at hand. It should directly discuss the individual, organization or cause and should address the reason(s) for which the letter is being proffered.

INQUIRY

A local non-profit group is applying for funding and has asked their MPP to provide a letter of support to be included in the group's application. Is it appropriate for an MPP to do this?

OPINION

The Commissioner advised that MPPs should not make direct requests for funding on behalf of constituents, whether in person or in writing. The Commissioner recommended that the MPP write a letter discussing the group's work and the MPP's familiarity with that work.

INQUIRY

An MPP has been asked to provide a letter of support for a volunteer who assisted with the MPP's election campaign. Can the MPP provide the letter, and if so, what letterhead should be used?

OPINION

The MPP may provide the letter of support on MPP letterhead. All MPPs campaign for election, and it is expected that members of the community volunteer to assist. MPP letterhead reflects the capacity in which the MPP knows the volunteer.

INQUIRY

A minister would like to write a letter of support on behalf of an individual applying for an award. The award is being given by an organization registered to lobby the minister's ministry. Can the minister send the letter of support?

OPINION

The Commissioner advised that it would be inappropriate to recommend a particular individual for an award with the organization, as it could lead to the actual or perceived inappropriate use of the minister's influence. The decision to grant the award could be inadvertently influenced by the organization's lobbying efforts.

Lobbying

INQUIRY

A lobbyist has asked to meet with a minister. The lobbyist has registered to lobby "All Ontario MPPs." Can the minister meet with the lobbyist? The lobbyist's registration does not indicate an intention to lobby the office of the minister.

OPINION

The minister may meet with the lobbyist, but the meeting should address only those issues related to the minister's role as MPP. The meeting should be held in the MPP's constituency office. If the lobbyist tries to lobby about ministerial business, the minister can remind the lobbyist that the lobbyist is not registered for that activity.

Representing Constituents

INQUIRY

An MPP has been asked to contact a private company on behalf of a constituent in order to cancel an agreement the constituent had with that company.

OPINION

The Commissioner advised that it is a violation of the Act to improperly further someone's private interest, regardless of whether the MPP is actually, or appearing to, influence a public or private organization. The MPP was advised not to get involved in the matter.

INQUIRY

A constituent came to an MPP's constituency office with a union representative to ask that the MPP intervene in the constituent's matter in order to have it expedited at a tribunal. Can the MPP intervene?

OPINION

The Commissioner advised that it is inappropriate to intervene in any matter when a constituent already has representation regarding that issue. It would be inappropriate for the MPP to interfere because there are already established procedures that the constituent's representative will follow. The MPP's involvement in those established procedures would be inappropriate.

INQUIRY

What obligation does a constituency office employee have to report a suspected fraud to a government ministry if she discovered the suspected fraud through her constituency work?

OPINION

The Commissioner advised that the disclosure of fraud is a legal issue, and recommended that the constituency office contact the party caucus for legal advice.

INQUIRY

An MPP would like to publish a list of charities in the constituency office newsletter, outlining where constituents can make donations. Is this permitted?

OPINION

The Commissioner advised that this was permissible providing that the MPP did not directly ask for donations. The Commissioner also cautioned that constituents may think the MPP is showing favouritism towards particular charities, so the MPP must be prepared to explain why only certain charities were chosen for the newsletter.

Constituency Office Resources

INQUIRY

An MPP would like to post a link to a single charitable organization on the constituency office website. Is this permitted?

OPINION

The Commissioner advised the MPP not to post the link because doing so is akin to using legislative resources to promote one charitable organization over another. The Commissioner explained that posting a single link could be seen as improperly promoting a private interest, whereas posting multiple links more closely resembles representing the interests of constituents broadly, which is part of the MPP's duties of office.

INQUIRY

A private company has sent an MPP a safety brochure to be displayed in the constituency office. The company's logo appears on the brochure. Should the MPP display the brochure?

OPINION

It is not an MPP's responsibility to promote private businesses through the constituency office. This office serves all constituents using legislative resources, so it would be inappropriate to allow a private enterprise to promote its business through a constituency office.

INQUIRY

Constituents frequently come to an MPP's constituency office looking for legal advice. Is it appropriate for an MPP to provide the name of a lawyer to constituents?

OPINION

The Commissioner advised that the MPP should not promote private entities in the constituency office or show favouritism. Rather, the Commissioner recommended that the MPP keep available the contact information for industry groups or a lawyer referral service to provide to constituents seeking legal advice.

INQUIRY

An MPP would like to publish a regular newsletter through the constituency office. The newsletter would detail all the activities and initiatives the MPP undertakes on a daily basis. The MPP is also a minister. What can the MPP write about?

OPINION

The Commissioner advised that the newsletter could detail only constituency office activities. The constituency office budget is provided by the Legislative Assembly, and should not be used to write about activities the MPP undertakes as minister.

Miscellaneous

INQUIRY

An MPP has been asked to endorse a candidate in a municipal election. Is this permitted under the Act?

OPINION

The Act does not prohibit political endorsements. The Commissioner advised the MPP to check with the party caucus on whether such an endorsement would be appropriate.

PROVIDING ADVICE ON CONFLICTS OF INTEREST, POLITICAL ACTIVITY AND POST-SERVICE EMPLOYMENT ISSUES

MINISTERS' STAFF

Mandate

As Ethics Executive for ministers' staff, the Integrity Commissioner makes determinations about conflict of interest, political activity and post-service employment issues.

The standards applicable to ministers' staff are found in the *Public Service of Ontario Act, 2006*, sections 66-69 and 94-98, and in the *Conflict of Interest Rules for Public Servants (Ministers' Offices) and Former Public Servants (Ministers' Offices)*.

The Office created new brochures on political activity and post-employment rules.

Overview

The office received 134 inquiries from ministers' staff this year, of which 65 were about post-employment and 69 about conflict of interest issues on the job. Many of the conflict of interest inquiries were from staff recently hired to work in ministers' offices. Generally, these inquiries were about outside activities, financial investments and previous employment. The increase in the number of these questions can be attributed to staff turnover that followed the spring election.

During the fall the Commissioner appeared before all ministers' staff to speak about their ethical obligations under the PSOA. In January the Office held a training open house at Queen's Park and invited all employees of MPP offices to attend — not just those employed as ministers' staff. The featured topics included rules for ministers' staff, guidance for assisting MPPs, meeting with lobbyists and filing expenses. The Office also created new resource materials to help staff readily find information to assist them on the job.

The Office also worked with ministers' staff to complete financial declarations required under the Act. This applies to ministers' staff who routinely work on a matter that may involve the private sector and who have access to confidential information about the matter. They are required to declare certain financial interests to the Commissioner, who provides appropriate direction to deal with any conflicts of interest.

Consultation on the Role of Ministers' Staff

In the wake of news reports about actions by ministers' staff at Queen's Park, the Commissioner undertook a months-long consultation with more than 50 current and former MPPs, ministers' staff and public servants. In the interviews, people talked candidly about the unique status and key roles played by ministers' staff, as well as the inherent tensions of working with stakeholders, the public service and opposition MPPs. The report, released in March, considers the challenges faced by ministers' staff and discusses what could change to help them fulfill their duties ethically and with integrity. The report features the following recommendations:

- that all of the staff employed in MPP offices at Queen's Park be subject to the in-service rules under the Act (i.e., not just ministers' staff);
- that all ministers' staff have written job descriptions and receive regular performance appraisals;
- that all ministers' staff receive mandatory training on their obligations under the PSOA;
- that the political activity rules be clarified; and
- that the premier, ministers and MPPs take leadership roles in ensuring their staffs fully understand, and follow, the Conflict of Interest Rules.

The Office created new brochures on the conflict of interest rules and guidelines for meeting with lobbyists.

The PSOA clearly establishes ministers as the ethical leaders in their offices. The report concludes that as part of fulfilling this responsibility, ministers must provide staff with professional expectations of what is to be accomplished on the job and with training and regular assessments to help them achieve their goals. In the Commissioner's view, this is not a "one-and-done" task conducted only when a new employee is hired. This is an ongoing obligation to recognize and support the important role of ministers' staff in the public service.

The report was well received, and the Commissioner has undertaken to meet with members of all parties to discuss her recommendations and next steps for implementation.

Inquiries

The following are samples of the inquiries received by the Commissioner and are intended to help ministers' staff identify conflict of interest issues. The inquiries are abbreviated and anonymized and are provided in order to raise awareness.

It is important to remember that each answer is based on its own set of disclosed facts and should not be considered a substitute for calling or writing the Office.

Pre-employment

INQUIRY

A new policy advisor in a minister's office had previously worked for a stakeholder of the ministry, and had been registered to lobby the provincial government on behalf of that stakeholder. The stakeholder has a continuing interest in files that are now the responsibility of the policy advisor. Can the policy advisor work on the files?

DETERMINATION

The Commissioner directed that a screen be imposed to separate the policy advisor from any files and/or discussions relating to his former employer. The screen was put in place for 12 months. Public servants have the obligation not to give preferential treatment to any person or entity, and they have the further obligation to avoid creating the appearance that preferential treatment is being given. The screen ensured that the policy advisor had no involvement or discussions with representatives of his former employer and that he did not participate in government discussions relating to issues specific to the stakeholder. The policy advisor could participate in policy discussions that were of general application. The minister and deputy minister were advised of the details of the screen put in place.

Financial Investments

INQUIRY

An employee in a minister's office owns shares in a particular company, and became aware through her work that the ministry was considering a decision that could have a material effect on the company. The ministers' staffer has no role in the decision regarding the company. What should she do about her investment?

DETERMINATION

The Commissioner directed that the public servant could hold the shares, but could not sell them or purchase any additional stock of the company until the government's decision was made public.

Outside Activities

INQUIRY

An employee in a minister's office has an online business. The business is unrelated to his ministry, and the work is conducted on personal time. Can he continue operating the business?

DETERMINATION

The Commissioner determined that it is acceptable for the minister's staff employee to continue to own and operate the business under the following conditions:

1. *the minister approves of the public servant's business activities;*
2. *should any issues arise at the ministry that affect the business, the public servant is to recuse himself and contact the Commissioner for further advice; and*
3. *he is to continue to refrain from using any government resources, including time, for the business activities.*

INQUIRY

An employee in a minister's office has been asked by a ministry stakeholder to sit on an organizing committee for an event. The stakeholder has received a funding commitment from the government for the event. There will be provincial and municipal government representation on the committee to facilitate issues that intersect with government. Can the public servant participate on the committee?

DETERMINATION

The Commissioner determined that the public servant's participation on the committee would be an extension of her duties with the Crown, and imposed the following conditions on accepting the role:

1. *the public servant recuse herself at the committee and at the ministry regarding any discussions about government funding;*
2. *the public servant not become involved in other issues specific to the stakeholder at the ministry (outside of the committee); and*
3. *the public servant follow established procedures when coordinating issues with the provincial government on behalf of the stakeholder.*

Post-employment

INQUIRY

A former employee of a minister's office is within the 12-month "cooling-off period" after leaving the government. His former minister has new responsibilities after a cabinet shuffle. Can the former employee lobby his former minister at the new ministry?

DETERMINATION

The lobbying restriction applies only to the former public servant's ministry, and not to the minister's new ministry. However, he has an obligation not to seek preferential treatment. As a result, the Commissioner recommended that he not lobby the minister during the cooling-off period, given their prior working relationship.

INQUIRY

A former employee of a minister's office is employed by a stakeholder of her former ministry. A ministry official has arranged a meeting with the stakeholder and has asked that she attend. The meeting is for the purpose of sharing information. Given that the former public servant is restricted from lobbying her former ministry, should she attend the meeting?

DETERMINATION

Since the government initiated the meeting, the Commissioner determined that the former public servant would not be violating her lobbying restriction by attending. However, the Commissioner recommended that a declaration be made at the meeting indicating that the ministry invited the former public servant to attend. The former public servant was also advised that she should take care to discuss only those issues that pertain to the purpose of the meeting.

INQUIRY

A former employee of a minister's office has been asked by his new employer to attend a meeting with government officials from his former ministry. The purpose of the meeting is to gather information. Can he attend the meeting, given the lobbying restriction?

DETERMINATION

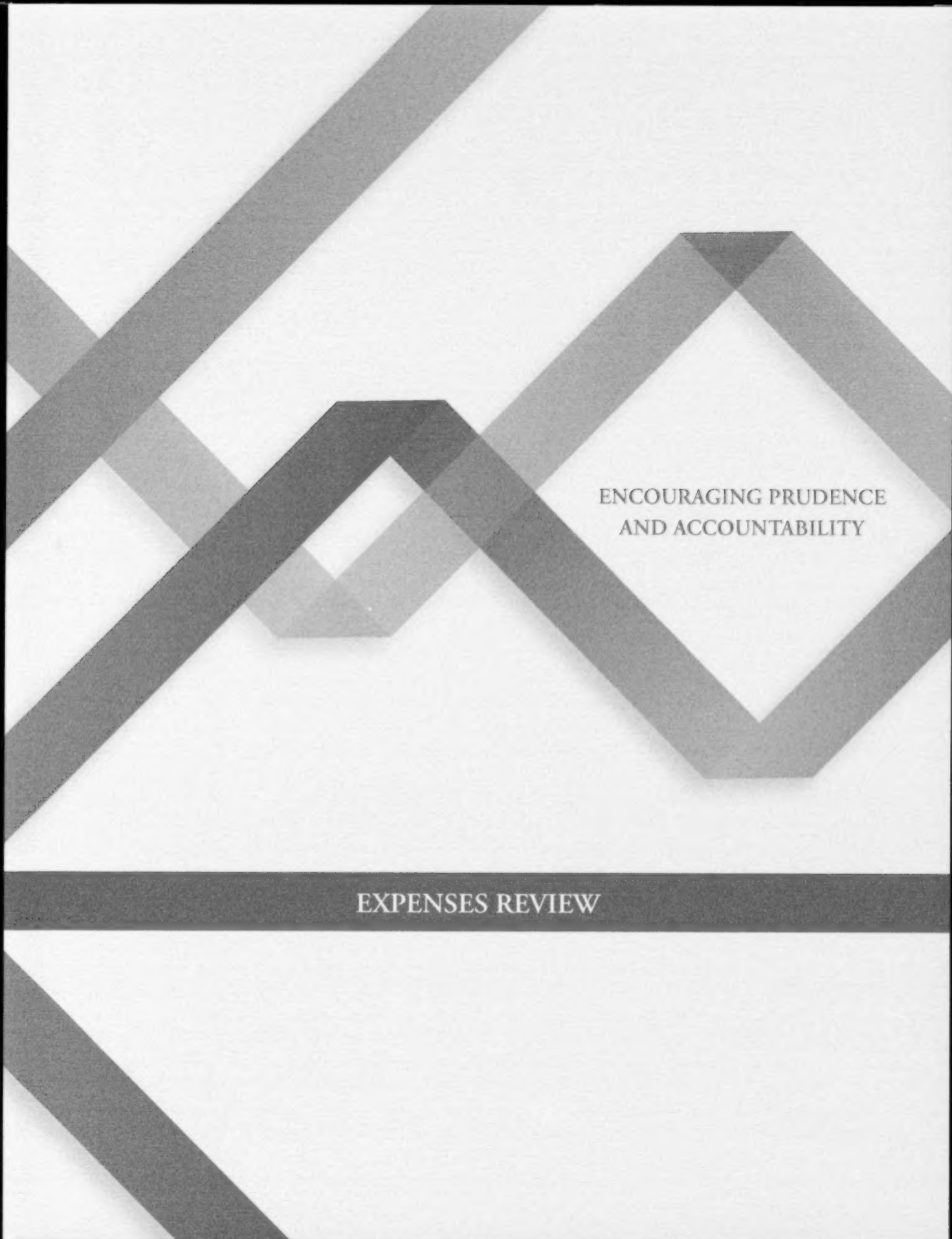
Lobbying is communicating with a public office holder in an attempt to influence. Although there may not be an intention to lobby, it may be difficult for the former public servant to control the content or direction of the meeting. In addition, by virtue of his attending the meeting, it may be perceived that lobbying took place. To ensure compliance with the restriction and adhere to the former public servant's preferential treatment obligation, the Commissioner directed that he not attend the meeting.

INQUIRY

A former employee of a minister's office, during the 12-month "cooling-off period," wishes to attend a fundraiser for her former minister. Can she attend the event?

DETERMINATION

The Commissioner determined that it was acceptable to attend the fundraiser; however, the former public servant was reminded of her lobbying restriction and obligation not to seek preferential treatment. The Commissioner cautioned that it may not be possible to avoid a perceived conflict of interest and that care should be taken when interacting with the minister.


ENCOURAGING PRUDENCE
AND ACCOUNTABILITY
EXPENSES REVIEW

EXPENSES REVIEW

Mandate

The Office of the Integrity Commissioner reviews the travel, meal and hospitality expenses for two groups of public servants:

- cabinet ministers, parliamentary assistants, leaders of the Opposition and their staff; and
- senior executives, appointees and the top five employee expense claimants at 21 of Ontario's largest agencies, boards and commissions.

The responsibilities are found in two pieces of legislation:

- *Cabinet Ministers' and Opposition Leaders' Expenses Review and Accountability Act, 2002*; and
- *Public Sector Expenses Review Act, 2009.*

The reviews are conducted using the *Rules Governing the Expenses of Cabinet Ministers, Opposition Leaders and Other Persons*, the Ontario Travel, Meal and Hospitality Expenses Directive, and guidelines issued by the Integrity Commissioner.

The Office created new brochures on things to consider before travel, and submitting an expense claim.

Overview

The *Public Sector and MPP Accountability Act, 2014*, received royal assent on December 11, 2014. This Act amended the *Public Sector Expenses Review Act, 2009*, by increasing the number of agencies, boards and commissions available for review from 21 entities to approximately 180.

The Office welcomed these changes, as they provide an opportunity to further the goal of educating a larger number of public bodies and working with them to ensure compliance with the expense rules.

Going forward, agency expense claims will be reviewed on a rotational basis. It is expected that agencies that show a clear understanding and compliance with the rules would "graduate" from the review process.

They would be removed from the working review list, and the Commissioner would select a different entity for review. There would always be the possibility that an agency could be selected for review again in the future.

The Office believes these measures are a positive step in supporting culture change within the organizations. The increased responsibilities do present administrative challenges; however, experience has shown that the benefits are substantial, as some bodies report reduced travel, meal and hospitality expenditures as a result of following the rules.

The *Public Sector and MPP Accountability and Transparency Act, 2014*, also amended the *Cabinet Ministers' and Opposition Leaders' Expenses Review and Accountability Act, 2002*. It will be renamed the *Politicians' Expenses Review Act, 2002*. The Act is further amended to require that all of these claims must be posted online within 90 days of the notice from the Commissioner that the review is complete.

These amendments will take effect upon the proclamation of the Act.

Having made recommendations for changes to the Travel, Meal and Hospitality Expenses Directive recently, the Commissioner deemed that it was also time to review the *Rules Governing the Expenses of Cabinet Ministers, Opposition Leaders and Other Persons*. The Office prepared recommendations to standardize the rules and bring them into line with those rules that apply to other public servants, and has provided this to the government.

Cabinet Ministers' and Opposition Leaders' Expenses Review

The Office reviewed 826 claims for ministers, parliamentary assistants, opposition leaders and their respective staff.

The Commissioner is required to provide the Speaker of the Legislative Assembly with a written report on the review conducted under the Act. The Commissioner can name in the report any person who does not comply with an order to repay or a recommendation for other action; however, the Commissioner cannot name a third party and cannot fault anyone for relying on her advice.

All expense claims examined were deemed to be in compliance with the rules and passed review.

The Office has taken a proactive approach, promoting education and guidance and fostering a collaborative environment for all stakeholders. The result is a more efficient and effective expense review process with greater compliance. The expense review team participated in training sessions for ministers' staff, working with individual staff members as well as appearing at the Queen's Park staff training open house in January. New brochures were prepared to provide easy reference materials for staff, and feedback has been extremely positive.

Public Sector Expenses Review

Staff reviewed 4,413 expense claims submitted for designated senior management employees, appointees and the top five employee spenders of the province's 21 largest agencies, boards and commissions.

The Office has fostered a collaborative environment with agency stakeholders, and the Commissioner's proactive stance on education and guidance has resulted in increased compliance with the rules. However, the Commissioner notes that compliance is a continuous process and will be working through the coming year to help all entities understand and follow the rules.

ENSURING A MEANINGFUL RESPONSE WHEN PUBLIC SERVANTS MAKE ALLEGATIONS OF WRONGDOING

DISCLOSURE OF WRONGDOING

DISCLOSURE OF WRONGDOING

Mandate

Ontario public servants who witness serious misconduct at work can take action by making a disclosure of wrongdoing. A public servant has a choice: disclose the information internally to their Ethics Executive or to the Integrity Commissioner, an independent third party. The Commissioner's authority to receive and deal with allegations of wrongdoing is set out in the *Public Service of Ontario Act, 2006.*

Overview

> "The Office received more inquiries from public servants in the fourth quarter than it has ever received in any other single quarter"

In the first three quarters of this year, the Office received fewer inquiries from public servants than it has in the past. This caused some concern, as it was viewed as a continuation of a downward trend observed in the previous year. In light of this trend, the Commissioner continued to emphasize to the public service the importance of raising awareness about the disclosure of wrongdoing framework. The Commissioner is pleased that the Secretary of the Cabinet initiated quarterly meetings with the Office to discuss issues related to this mandate, including education and outreach. The Commissioner looks forward to continuing these discussions to improve the visibility and overall effectiveness of the disclosure of wrongdoing process within the Ontario Public Service.

Despite the slow start to the year, the Office then saw a sharp increase in the number of inquiries from public servants in the fourth quarter. In fact, it received more inquiries from public servants in the fourth quarter than it has ever received in any other single quarter. The cause of this sudden rise is not known, but the Office will monitor the cause and types of inquiries received.

As a result of the higher number of inquiries received late in the fourth quarter, the number of cases that remained under review at year-end was higher than it has typically been in previous years.

In case work, the Commissioner concluded a complex and lengthy investigation relating to a procurement process (Case 1). The investigation did not result in a finding of wrongdoing; however, this was an important case, as it identified a potential issue with the procurement practices of the public service.

The Commissioner concluded one other case, a referral, which was closed without making any recommendations after finding that she was satisfied with the investigation that the public service had conducted (Case 2).

The Commissioner did not initiate any new investigations this year.

Activity

	2013–2014	2014–2015
Total contacts from public servants	**16**	**29**
Request for information	8	18
Intention to file a disclosure of wrongdoing	8	11

	2013–2014	2014–2015
Disposition of matters where a public servant sought to make a disclosure of wrongdoing (including matters carried over from the prior fiscal year)	9[1]	11
Referred to appropriate senior official for investigation or under investigation by the IC	3	3
Not received as a disclosure of potential wrongdoing because the allegations could not possibly reveal a "wrongdoing" as that term is defined in the Act	1	2
Received as a disclosure of potential wrongdoing, but the circumstances were outside the Office's jurisdiction	0	1
File closed for miscellaneous reasons (e.g., discloser decided not to proceed, insufficient information to determine jurisdiction)	5[2]	0
Remaining under review at fiscal year-end	0	5

[1] Includes eight inquiries in which the public servant expressed an intention to file a disclosure of wrongdoing, plus one inquiry remaining under review at year-end 2013.

[2] In four of these cases, the Commissioner provided the information to an appropriate Ontario Public Service official for review.

Please note: Section 112 of the *Public Service of Ontario Act, 2006*, requires the Commissioner to protect the identities of those involved in investigations. To assist with adhering to the obligations in section 112, the generic masculine has been used to protect the identity of those involved.

CASE 1

Allegations of conflict of interest and gross mismanagement related to procurement and other Conflict of Interest Rules (Integrity Commissioner Investigation)

Introduction

It was alleged that public servants were responsible for gross mismanagement and/or conflicts of interest in relation to hiring and procurement decisions. The Commissioner was satisfied that the internal investigation that had previously been conducted by the organization addressed some of these allegations, but there were several questions that the Commissioner determined could be resolved only through a direct investigation by the Office.

Following the investigation, the Commissioner concluded that there was no gross mismanagement, or any other type of wrongdoing, by any public servant. However, the investigation uncovered broader issues about the procurement practices of the Ontario Public Service, which the Commissioner has recommended the Secretary of the Cabinet address.

The Allegations and Context

The Commissioner's investigation related to the following two categories of allegations:

1. conflict of interest allegations arising from a public servant's participation in recruitment and procurement processes involving individuals with whom he had a prior relationship; and
2. gross mismanagement allegations arising from the involvement of a particular vendor in a multi-stage procurement process.

The allegations in the second category (gross mismanagement) arose in the context of a project that required implementation in multiple phases. The purpose of the first phase, which was completed by a vendor selected through a procurement process, was to obtain recommendations on how to implement the remaining phases of the project. The allegations relate to the appropriateness of then allowing that vendor to bid on the subsequent phases and of awarding it this work. The main concern was that, as a result of its involvement in the first phase, the vendor had an unfair advantage over other bidders because it had access to information that other bidders did not have.

Findings

The Commissioner found that there was no evidence to support the conflict of interest allegations described under the first category.

In regards to the second category, the Commissioner found that although more could have been done to level the playing field for all bidders, the issues with the procurement process did not constitute gross mismanagement in the work of the public service by a public servant. The Commissioner found that any issues with the procurement process arose because of deficiencies with overall procurement practices, rather than because of the actions of a particular public servant. The Commissioner found that some of these issues were subsequently addressed as a result of the internal disclosure of wrongdoing investigation.

In order for the conduct to be "wrongdoing" within the meaning of the *Public Service of Ontario Act, 2006*, the circumstances must reveal that individual public servant(s) engaged in wrongdoing. The Commissioner found that this was not the case.

Conclusion and Recommendation

Although the Commissioner concluded that there was no wrongdoing, this matter raised some important issues about the procurement practices of the OPS. More specifically, it raised the question of whether, and under what circumstances, it is appropriate for a vendor to be allowed to bid on subsequent phases of a project. In the absence of any finding of wrongdoing, however, these policy questions are more appropriately dealt with by the OPS as a whole. Accordingly, the Commissioner recommended to the Secretary of the Cabinet that these issues be examined to determine whether steps need to be taken to provide better guidance on the issue of what is known as "downstream" conflict of interest.

CASE 2

Allegations relating to the interference of a licensing decision (Referral)

It was alleged that public servants had impermissibly interfered with a licensing decision that resulted in a grave danger to the life, health and safety of persons. Before making the disclosure to this Office, the matter had been investigated internally, but the discloser was not satisfied with the investigation and the finding of no wrongdoing. The discloser alleged that the public servant responsible for that investigation purposefully disregarded evidence.

The Commissioner referred the matter, requesting the investigation report and additional information about the prior investigation, which was then provided to the Office. The Commissioner was satisfied with the internal investigation, and also concluded from the information provided that the allegation that the public servant had disregarded evidence could not be substantiated. The Commissioner closed the file on this matter without making any recommendations.

PROVIDING TRANSPARENCY ABOUT WHO IS TALKING TO WHOM IN GOVERNMENT, AND ABOUT WHAT

LOBBYISTS REGISTRATION

LOBBYISTS REGISTRATION

Mandate

The Office maintains an online public record of paid lobbyists. The searchable database provides each lobbyist's name, company, client or employer, the lobbying activity and the targeted ministry or agency. The Integrity Commissioner is the province's Lobbyists Registrar.

This responsibility is found in the *Lobbyists Registration Act, 1998*.

Overview

> "The Office successfully launched a redesigned lobbyists registration system"

In December the government passed the *Public Sector and MPP Accountability and Transparency Act, 2014*, which brings substantive amendments to Ontario's *Lobbyists Registration Act* and the lobbyists registration system. Among the changes:

- The Commissioner is granted the power to investigate complaints under the Act, with the authority to impose non-monetary sanctions, including the authority to suspend a lobbyist for up to two years.
- The threshold for the amount of time an in-house lobbyist can lobby before being required to register is lowered. This time had been 96 hours every three months (the 20% rule), and after the amendments, this is reduced to 50 hours a year.
- The two in-house lobbyist categories will follow the same registration rules. This change is most notable for in-house lobbyists at Persons and/or Partnerships. Previously, all P&P lobbyists were required to individually submit a registration. Going forward, a P&P registration will be under the name of the senior officer, and will then list the names of all in-house lobbyists within one registration.
- All lobbyists will be required to declare whether they are a former MPP or ministers' staff employee or held other government positions in a prescribed list in the Act.
- All lobbyists will be required to specify which MPPs and ministers (by office) they are targeting.

- All lobbyists are required to clearly state the goal of their lobbying activity.
- Contingency fees for consultant lobbyists will be prohibited.

The Commissioner welcomed the amendments, noting that the Office has been calling for updates to the legislation for many years. A firm believer in accountability and transparency in the system, the Commissioner has worked hard to establish a registry that provides the public with easy access to learn who is lobbying whom in government, and about what.

Operations

In May 2014, the Office successfully launched a redesigned lobbyists registration system. This was the culmination of a project to update and modernize the Office's IT system. Staff spent months preparing for the migration of all registry data for active and inactive registrations, writing the questions, preparing explanatory resources and designing the new forms. The website was updated with new materials to address some of the more common questions the Office receives about the registry.

The new registration format presents lobbyists with a page-style registration form. Questions are accompanied by handy explanatory tips to assist lobbyists in providing the required information. The launch was supported by numerous training sessions held in the Office to help lobbyists and their representatives learn how to complete the forms and use the system.

The Commissioner is ensuring that each registration clearly lists the goal of a lobbying activity. With the changes to the Act forthcoming, this will no longer be a request; it will be law.

The purpose of the registry is to promote transparency and accountability by informing the public about who is lobbying the Ontario government and about what. This is why it is so important to clearly identify a lobbyist's goal or intended outcome and ensure that the entry is accurate and up to date. In addition, lobbyists are required to update their registration within 30 days if these goals change.

In some cases, lobbyists are either too vague about their lobbying goal or too broad, listing any and all legislation and policies/programs to cover any and all situations that may arise. In both cases, this defeats the purpose of a transparent registry.

The Commissioner is asking lobbyists to take a careful look at their lobbying activity entries before submitting an initial registration, a change to their registration or a registration renewal to ensure the lobbying goal is clearly listed and the activity itself makes sense.

The Commissioner is encouraged by the cooperation received by lobbyists when requests for more information about their lobbying goals have been made.

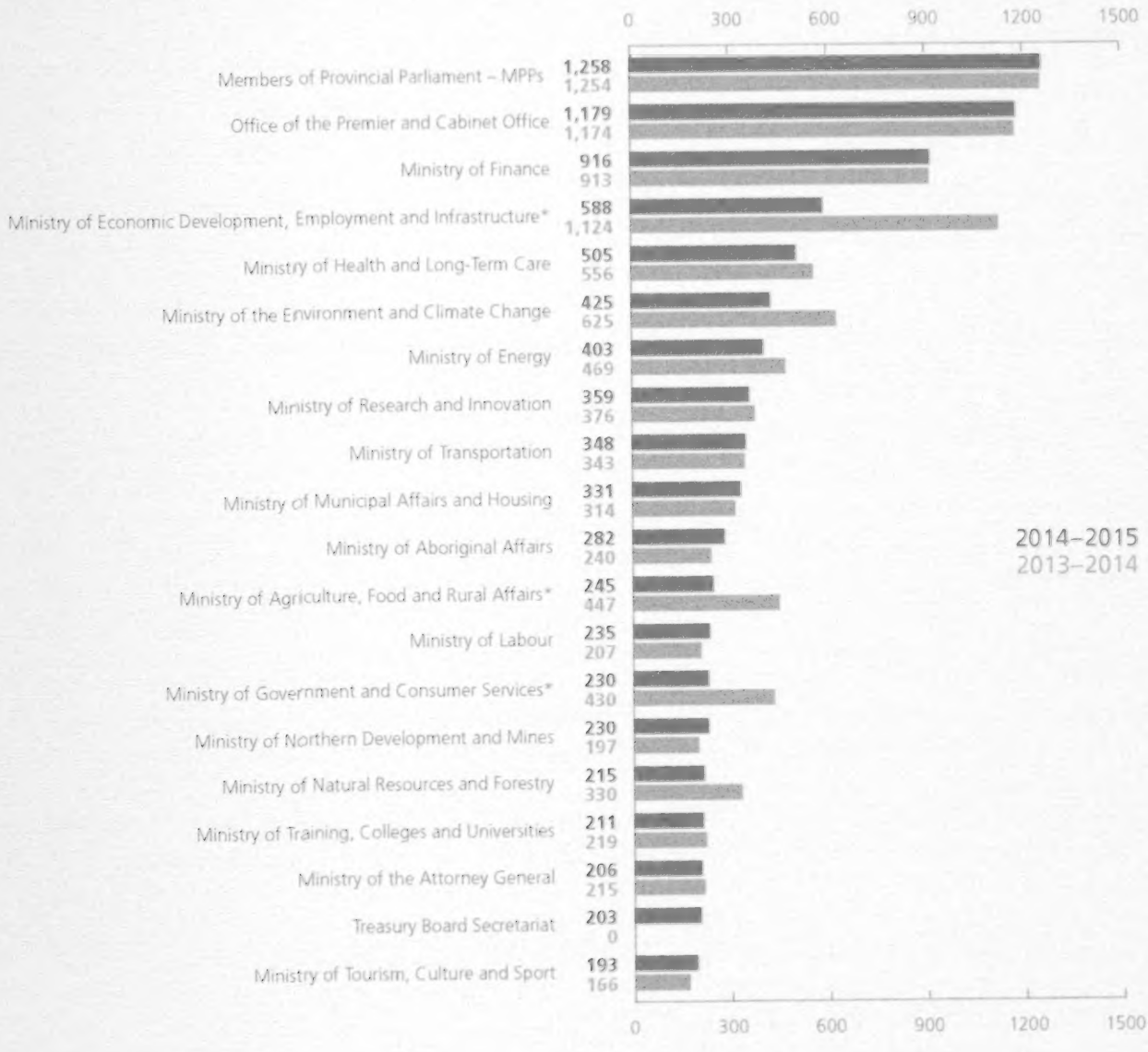
The registry will be upgraded again in the coming year, as a result of the amendments to the Act. New questions will be added to all registration forms, and the system for Persons and/or Partnerships will be revised to reflect the consolidation of individual registrations for each in-house lobbyist into one for each entity. In addition, policies and procedures will be developed for the Commissioner's new investigative powers. Compliance and education are at the foundation of all outreach conducted by the Commissioner over the years, and this year was no different. The Office has used an informal approach to handling complaints, working wherever possible to explain the requirements of the registry and ensure that all lobbyists understand their obligations. Educating stakeholders about the workings of the registry continued to be a key topic for outreach, as well as the Commissioner's advocacy for the legislative changes and explaining how the principles of a robust registration system enhance transparency for the public.

Registration Activity

As of March 31, 2015, there were 1,774 active registrations on the registry and 789 lobbyists.

	March 31, 2014	March 31, 2015
Total Registrations	1,863	1,774
REGISTRATIONS BY TYPE		
Consultant	1,449	1,340
In-House, Organizations	227	232
In-House, Persons & Partnerships	187	202

Lobbyist Activity by Ministry



* The Ministry of Economic Development, Trade and Employment, and the Ministry of Infrastructure, were combined to form the Ministry of Economic Development, Employment and Infrastructure in June, 2014.

* The Ministry of Agriculture and Food and the Ministry of Rural Affairs were combined to form the Ministry of Agriculture, Food and Rural Affairs in June, 2014.

* The Ministry of Consumer Services and the Ministry of Government Services were combined to form the Ministry of Government and Consumer Services in June, 2014.

Lobbyist Activity by Subject Matter

0 100 200 300 400 500 600 700 800
Economic Development and Trade 672 644
Environment 583 633
Health 513 525
Energy 483 517
Taxation and Finance 459 480
Industry 456 463
Infrastructure 338 291
Transportation 336 336
Research and Innovation 300 265
Government Procurement 298 291
Science and Technology 288 310
Municipal Affairs 255 191
Manufacturing 233 257
Labour 231 225
Agriculture 218 217
Aboriginal Affairs 209 183
Education 203 191
Colleges and Universities 185 158
Small Business 184 170
Consumer Services 178 162
2014–2015
2013–2014
0 100 200 300 400 500 600 700 800

FINANCIAL STATEMENT

FINANCIAL STATEMENT

Salaries and Benefits	$ 1,201,284
Transportation and Communication	$ 63,826
Services	$ 608,887
Supplies and Equipment	$ 20,673
Total	$1,894,670

The Office of the Integrity Commissioner's fiscal year runs from April 1 to March 31.

Financial transactions are subject to audit by the Office of the Auditor General through the accounts of the Assembly.

Information about the *Public Sector Salary Disclosure Act, 1996*, can be found at **www.fin.gov.on.ca**.

Proactive Disclosure

Expense claims for travel, meals and hospitality for the Office's senior management, and employees with claims exceeding $5,000, can be found at **www.oico.on.ca**.

Copies of this and other Ontario
government publications are available at:

777 Bay St.
Toronto, ON M5G 2C8

or

ServiceOntario
110 Laurier Avenue West
Ottawa, ON K1P 1J1

Telephone: 416.326.5300; or toll-free in Ontario, 1.800.668.9938

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The report is also available at **www.oico.on.ca.**

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